

DOCKET FILE COPY ORIGINAL

BEFORE THE

MM DOCKET No. 97-225

RM-9173

RECEIVED

DEC 22 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF TEXAS GRACE COMMUNICATIONS

Comes now **Texas Grace Communications**. (“Texas Grace”), by Counsel,¹ and pursuant to Section 1.415 of the Commission's Rules, hereby respectfully submits these Comments in support of the above-captioned *Notice of Proposed Rule Making*,² proposing the reallocation of Channel 248C2 from Olney to Archer City, Texas, and the modification of Texas Grace’s Radio Station KRZB (FM) construction permit to specify Archer City as its Community of License. In addition Texas Grace proposes the allocation of Channel 270C2 at Olney, Texas. In support thereof, the following is shown:

Introduction

1. Pursuant to a Petition for Rule Making submitted by Texas Grace, the Commission issued the *NPRM* on October 31, 1997, proposing to amend the Table of FM Allotments Section 73.202(b) of the Rules, as follows:

¹ The Commission is respectfully requested to note in its records the substitution of Counsel for Texas Grace to the Law Firm of Putbrese Hunsaker & Trent, P.C., and to serve all subsequent Communications on that firm, attention: John C. Trent, Esq..

² DA 97-2273 (released October 31, 1997) (hereinafter, “*NPRM*”).

FM TABLE OF ALLOTMENTS

<i>Community</i>	<i>Present</i>	<i>Proposed</i>
Olney, Texas	248C2	270C2
Archer City, Texas	-----	248C2

2. The Commission requested that Comments be submitted by members of the public on the proposal on or before December 22, 1997. Accordingly, the instant Comments of Texas Grace are being submitted in timely fashion.

3. Texas Grace is the Permittee of Radio Station KRZB (FM), Olney, Texas³. Radio Station KRZB (FM) is presently authorized to operate on Channel 248C2. Texas Grace seeks to have the Commission amend the FM Table of Allotments to change KRZB's community of license to Archer City, Texas, while providing for comparable replacement (C2) service at Olney, Texas.

Technical Showings

4. Texas Grace hereby incorporates by reference herein its original Petition.

A. FCC Substitution of Alternative Channel

5. In preparation of Comments, it has been discovered by Texas Grace's Engineer that the Commission Staff on its own initiative has substituted the alternative channel allotment of 282C2 ⁴ for Olney, Texas in lieu of channel 270C2 ⁵ as originally

³ Texas Grace became the Permittee of Radio Station KRZB (FM), Olney, Texas on October 7, 1996, pursuant to BPH-960201MB.

⁴ The attached supplemental engineering showing notes that, subsequent to the issuance of the *NPRM*, the Commission's database was amended to reflect the Channel 282C2 counterproposal.

⁵ *Ibid.* Texas Grace has since learned that its originally-proposed Channel 270C2 service for Olney would be precluded, should the Commission adopt a pending counterproposal by Hunt Broadcasting in MM Docket 97-104 to utilize Channel 269C3 or C1 at Denison-Sherman, Texas for a change of

(continued...)

proposed by Texas Grace. Texas Grace's consulting engineer has confirmed that Channel 282C2 may indeed be allotted to the community of Olney, Texas, as per Commission initiative. Texas Grace hereby expresses its willingness to accept this substitution, should the counterproposal in MM Docket 97-104 be approved. However, in the event that the Denison-Sherman - Azle, Texas counterproposal is rejected by the Commission, Texas Grace reiterates its request that the Commission allot Channel 270C2 to Olney, as specified in the *NPRM* adopted October 22, 1997.

B. Archer City Site Restriction

6. At paragraph 3 of the *NPRM*, the Commission noted a site restriction of 0.2 kilometers (0.1 miles) southeast of the community.

7. In the engineering showing in support of its original petition, Texas Grace's technical consultant provided data which showed that no site restriction existed at the coordinates for channel 248C2 at Archer City.⁶ In the attached supplemental engineering statement, Texas Grace's engineer notes that the coordinates for Archer City used in the initial study were drawn from the U.S. Census, and that a buffer zone in excess of 3 km between the coordinates and the closest spaced facility existed.⁷

8. Texas Grace respectfully requests the Staff to review its methodology as to the determination of the site restriction for Archer City and further consider Texas Grace's proposed non-restriction.

⁵ (...continued)

community move to Azle, Texas as a full Class C.

⁶ Coordinates shown for Archer City were 33-35-36NL and 98-37-31WL.

⁷ See Engineering Statement of R. Lee Wheeler, p. 1, note 1.

Public Interest Considerations

9. Texas Grace has clearly demonstrated that Archer City has a compelling, overwhelming need for its own local transmission service (See Petition for Rule Making). Not only does Archer City lack such service, but there is none originating from any community in Archer County, for which Archer City is the County Seat and commercial center. This deficiency would be instantly corrected, and the public interest therefore well served, by establishment of first local aural service on Channel 248C2 at Archer City as proposed by Texas Grace.

10. First local transmission service for the community of Olney must also be ensured, and is therefore a key tenet of this *NPRM*. As noted, Texas Grace originally proposed allocation of replacement service (for the re-allocated Channel 248) on channel 270C2 at Olney. Subsequent to referencing Channel 270C2 service for Olney in the *NPRM* adopted October 22, 1997, the Commission has, on its own initiative, substituted provision of Channel 282C2 service for Olney. Olney is therefore ensured the benefit of its own first local service by virtue of the Texas Grace proposal, which is clearly in the public interest.

11. Texas Grace's proposal would result in *substantial* additional reception service, as the reallocated Channel 248C2 at Archer City could provide service to an additional 110,599 persons -- a net increase of nearly 470 percent.⁸ At the same time, Texas Grace has demonstrated that the reallocation of Channel 248C2 at Archer City poses no risk of the creation, or perpetuation, of an unserved, or underserved, area, further showing the Texas Grace proposal to be in the public interest.⁹

12. Archer City, for which Texas Grace intends to provide a first local service by virtue of this rulemaking, is a community not located within an urbanized area.

⁸ See Texas Grace's Petition for Rule Making, Engineering Statement (Exhibit 1), Table 1.2.

⁹ *NPRM*.

Moreover, Texas Grace has previously submitted an engineering exhibit demonstrating that the proposed Archer City facilities would not place a 70 dBu signal over 50 percent or more of any urbanized area.¹⁰

13. ***Consistency with Commission Policy Objectives.*** As demonstrated in its original Petition, Texas Grace believes the public interest will be served by adopting the proposed amendment, since it will provide new service to Archer City, Texas with its first local aural transmission and will enable KRZB significantly to expand its FM service area. In addition, Texas Grace has replaced the current frequency with a comparable Class C2 service at Olney, Texas. The end result is that not one, but *two communities*, are guaranteed the benefit of their own first local transmission service. These new services at Archer City and Olney, Texas will promote the Commission's goal of enhancing diversity of thought and opinion in the broadcast media, as well as Congress's charge to the Commission to ensure a fair, efficient and equitable distribution of radio services in the United States¹¹. Furthermore, under Commission policies, the proposed substitution and reallocation would constitute a preferential arrangement of allotments, and encourage the maximization of broadcast facilities. *See generally, Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989) ("Change of Community R&O"), (*recon. granted in part*, 5 FCC Rcd 7094 (1990)) and *Modification of FM and TV Stations Licenses*, 49 FR 34007 (August 28, 1984, at ¶13).

Statement of Continuing Interest

14. Texas Grace hereby reiterates its intention that, should the Commission grant Texas Grace's request and ultimately adopt the proposed amendments to the FM Table of Allotments, Texas Grace will promptly file an application to modify the

¹⁰ See *Texas Grace's Petition for Rule Making*, Engineering Statement.

¹¹ 47 U.S.C. §307(b)

facilities of KRZB (FM) to specify operation on Channel 248C2 at Archer City, Texas. Further, Texas Grace shall make application to the Commission for the new proposed allotment for Olney, Texas on channel 282C2 (or Channel 270C2, as originally proposed, should the Commission reject the Azle counterproposal in MM Docket 97-104) and, in the event of approval of said application, Texas Grace shall timely construct the facilities authorized therein.

Conclusion

WHEREFORE, the above premises considered, Texas Grace respectfully urges that the Commission AMEND Section 73.202(b) of the Rules, FM Table of Allotments, as follows:

<i>Community</i>	<i>Present</i>	<i>Proposed</i>
Archer City, Texas	-----	248C2

WHEREFORE, in light of the Commission initiative to substitute Texas Grace's originally-proposed Allotment of Channel 270C2 replacement service at Olney, Texas, as noticed in the Commission's *NPRM* adopted October 22, 1997, Texas Grace affirms its willingness to cooperate with the Commission in its allotment of frequencies for Olney, Texas, however, in the event the Denison-Sherman-Azle, Texas counterproposal (MM 97-104) is rejected by the Commission, Texas Grace reiterates its request that the Commission allot Channel 270C2 to Olney, Texas.

Respectfully submitted,

TEXAS GRACE COMMUNICATIONS

By: 

David M. Hunsaker
John C. Trent

Its Attorneys

December 22, 1997

Law Offices
PUTBRESE, HUNSAKER & TRENT, P.C.
100 Carpenter Drive, Suite 100
P.O. Box 217
Sterling VA 20167-0217

(703) 437-8400



WHEELER BROADCAST CONSULTING

Engineering Statement

This consultant has been retained by Texas Grace Communications for the purpose of preparing technical support to its comments in MM Docket 97-225, RM-9173.

Texas Grace is the petitioner in the above captioned proceeding.

In its original petition for rulemaking, Texas Grace Communications sought to allocate Channel 248 C2 to Archer City, Texas as its first local service and further to allocate Channel 270 C2 to Olney Texas. Copies of searches of the Commission's August 4, 1997 FM databases were included with the original petition so as to demonstrate the availability of both channels to the respective communities¹.

Subsequent to the filing of the petition for rulemaking and subsequent to the issuance of the Notice of Proposed Rulemaking, in the Commission's November 15, 1997 FM database, this office became aware of a counterproposal in MM Docket 97-104 that, if adopted, would conflict with Channel 270 C2 at Olney, Texas. A further search of that database revealed that Channel 282 C2 was also available at Olney, Texas in full compliance with 47 CFR 73.207 and 47 CFR 73.315.

So as to resolve the potential conflict between Channel 270 C2 at Olney, Texas and the counterproposed Channel 269 C service at Azle, Texas this consultant began the process of preparing technical support for the Channel 282 C2 alternate channel at Olney. In order to use the latest information available, the Commission's December 12, 1997 FM database was retrieved and, in that database, it was found that the Commission had already identified the Channel 282 C2 alternative at Olney, Texas. A copy of that database search is included in this report as Exhibit 1².

6025 MARTWAY
SUITE 112
VISSON, KS 66202
413-362-7282
413-362-7282

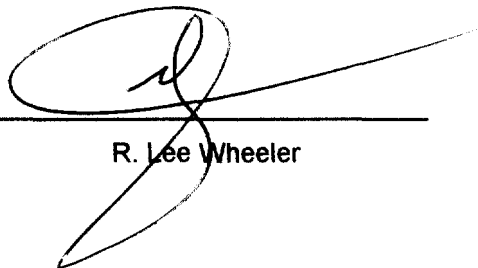
¹ In the Notice of Proposed Rulemaking, the Commission indicates that Channel 248 C2 would have a 0.2 km S.E. site restriction. The United States Census Bureau lists the coordinates of Archer City, Texas as 33° 35' 36" N by 98° 37' 31" W, the same coordinates listed for the allocation of Channel 248 C2 at Archer City. The nearest preclusion to that reference point is the co-channel license of KLAK which clears the reference point by 3.62 km.

² As shown in Exhibit 1, the Channel 282C2 alternate would not meet the minimum spacing requirements of 47 CFR 73.207 with regard to BLH-941220KD in Burkburnett, TX and BLH-960315KA in Dallas, Texas. Both short spaced facilities are auxiliary facilities and, as such, are not subject to minimum spacing requirements.

In light of the fact that the Commission has already identified the Channel 282 C2 alternative at Olney, Texas, no formal presentation seeking Channel 282 C2 at Olney, Texas is included with this report.

All information contained in this report is true and accurate to the best of my belief. Having had numerous matters before the Commission, my qualifications are a matter of record.

12/14/97
Date


R. Lee Wheeler

WHEELER BROADCAST CONSULTING
6025 Martway - Suite 112 - Mission KS 66202

Alternate Channel
Olney, Texas

REFERENCE					DISPLAY DATES		
33 08 47 N	CLASS C2				DATA 12-12-97		
98 52 00 W	Current rules spacings				SEARCH 12-19-97		
----- CHANNEL 282 -104.3 MHz -----							
CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
<hr/>							
AD282	282C2	Olney	TX	0.0	0.00	190.0	-190.00 *
AD	33 08 47	98 52 00	0.000 kW	0M	0.0	118.1	
	FCC Staff				RM9173		970807
>Alternate Channel							
KYYI	284C	Burkburnett	TX	17.3	92.45	105.0	-12.55 *
LI CN	33 56 30	98 34 07	0.740 kW	87M	57.5	65.3	
	Sam F. & Pamela S. Beard				BLH941220KD		
KKDAFM	283C	Dallas	TX	108.9	187.47	188.0	-0.53 *
LI CN	32 35 17	96 58 34	52.000 kW	378M	116.5	116.8	
	Service Broadcasting Corp.				BLH960315KA		
KKDAFM	283C	Dallas	TX	108.7	188.00	188.0	0.00 *
LI CY	32 35 22	96 58 10	100.000 kW	485M	116.8	116.8	
	Service Broadcasting Corp.				BLH821029AL		
KYYI	284C	Burkburnett	TX	359.4	105.00	105.0	0.00 *
LI CN	34 05 35	98 52 44	100.000 kW	310M	65.3	65.3	
	Sam F. & Pamela S. Beard				BLH881118KA		
KXYLFM	281C1	Brownwood	TX	184.5	160.40	158.0	2.40 <
LI HN	31 42 16	99 00 05	74.000 kW	98M	99.7	98.2	
	Watts Communications, Inc.				BLH870109KD		
>Horizontally Polarized Only							
KCDD	279C	Hamlin	TX	247.7	122.01	105.0	17.01
LI CY	32 43 31	100 04 19	100.000 kW	300M	75.8	65.3	
	Big Country Broadcasting, Inc				BLH870206KC		
KLXK.A	228C2	Breckenridge	TX	151.6	38.83	20.0	18.83
AP CN	32 50 19	98 40 07	38.000 kW	171M	24.1	12.4	
	Big Country Radio, Inc.				BMPH961125IH		
>One-Step Application from Channel 228C3-Amended 961125							
KLXK.C	228C2	Breckenridge	TX	189.5	40.99	20.0	20.99
CP CN	32 46 55	98 56 22	50.000 kW	136M	25.5	12.4	
	Big Country Radio, Inc.				BPH960111LA		971221
>One-Step Application from Channel 228C3							

WHEELER BROADCAST CONSULTING
6025 Martway - Suite 112 - Mission KS 66202

CLASS C2

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
DE228	228C2	Breckenridge	TX	189.5	40.99	20.0	20.99
DE	32 46 55	98 56 22	0.000 kW	0M	25.5	12.4	
	Big Country Radio, Inc.				RM9199		971010
KLXK	228C3	Breckenridge	TX	189.5	40.99	17.0	23.99
LI ZCN	32 46 55	98 56 22	12.500 kW	136M	25.5	10.6	
	Big Country Radio, Inc.				BLH930614KE		
>*To Channel 228C2 per One-Step Application BPH-960111LA							
AD228	228C3	Graford	TX	94.0	49.98	17.0	32.98
AD	33 06 51	98 19 57	0.000 kW	0M	31.1	10.6	
	Big Country Radio, Inc.				RM9199		971010
KXIL	281C3	Sanger	TX	77.8	151.93	117.0	34.93
LI CN	33 25 29	97 16 11	11.000 kW	150M	94.4	72.7	
	Metrosound of North Texas, LL				BLH970310KA		
>From Channel 281A, Sherman TX							